

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRL. MISC. No.M-41614 OF 2016
DATE OF DECISION : 22nd SEPTEMBER, 2017

Komal Gupta

.... Petitioner

Versus

State of Haryana & another

.... Respondents

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

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Present : Mr. A.P.S. Deol, Senior Advocate with
Mr. Vishal Rattan Lamba, Advocate for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

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A. B. CHAUDHARI, J.

The petitioner has filed this petition under Section 438 Cr.P.C. seeking anticipatory bail in FIR No.620 dated 18.10.2016 registered under Sections 420, 467, 468, 471 & 120-B IPC at Police Station Palam Vihar, Gurgaon District Gurgaon.

In support of the petition for grant of anticipatory bail learned senior counsel for the petitioner submitted that the petitioner had absolutely no concern with the transaction in respect of which the complaint was lodged by the complainant. According to him the transaction in question is purely of civil nature and therefore the criminal action initiated against the petitioner was not at all justified. He then submitted that the complainant has a remedy of obtaining relief from the civil Court rather than misusing the criminal law. He submitted that the petitioner has already joined the investigation pursuant to the interim

order that was made by this Court on 21.11.2016 and therefore the interim order should be made absolute.

Per contra, learned counsel for the State as well as for the complainant vehemently opposed the petition for grant of anticipatory bail and submitted that the petitioner has committed a very serious offence and cannot be extended relief of anticipatory bail. The custodial interrogation of the petitioner is necessary to make the recovery as well as to know as to how the original sale deed was taken out from the Corporation Bank. The learned counsel for the respondent, therefore, opposed anticipatory bail and prayed for rejection thereof. The counsel for the State invited my attention to the affidavit in reply filed by Jai Singh Singh, HPS, Assistant Commissioner of Police, Law and Orders, Gurugram.

Heard learned counsel for the rival parties and perused the FIR and the paper book.

The investigating officer has summed up the summary of his investigation. It is stated in the affidavit that the petitioner Komal Gupta is a partner of M/s. Mount Agro and Infra Developers Pvt. Ltd., Shalimar Bagh, Delhi. They sold the property in question to Bhupesh Sethi son of Surender Kumar and Smt. Shashi wife of Sidharth Sethi namely plot No.878, F-Block, I, Palam Vihar, Gurugram measuring 300 Sq. Meters. As a matter of fact, the said plot was already mortgaged with the Corporation Bank, Shalimar Bagh, New Delhi and in order to get the loan, the original documents were lodged with the Bank. The defence, that the petitioner had already resigned from the company, is false and

baseless as the petitioner had signed the cheques of the company up to the year 2013 as against the resignation on 25.10.2011. I quote the following portion of the reply filed by the State:

“iii. That despite the mortgage of the said plot, the petitioner had given the authority letter in the name of his employee Harsh Sharma as Director of M/s Mount Agro and Infra Developers Pvt. Ltd., Shalimar Bagh, Delhi and on the basis of which sale deed no.15090 dated 19.09.2012 was executed in favour of Smt. Shashi Jehman for an amount of Rs.55 Lakhs pertaining to ground floor and 15811 dated 27.09.2012 had been got executed in favour of Surender Kumar Sethi for an amount of 54,45,000/- pertaining to first floor.

iv. That the amount of Rs.54,45,000/- and Rs.55,00,000/- has been found to be credited in the account of the company as per the statements of accounts received from the Corporation Bank, Shalimar Bagh, New Delhi.

v. That the plea taken by the petitioner that he had already resigned from the company i.e. M/s Mount Agro and Infra Developers Pvt. Ltd., is not tenable as he has signed the cheques of the company up to the year 2013 whereas, he has told his resignation date as 25.10.2011. Through the

signed cheques, the amount has been transferred by the petitioner in the bank account of his co-accused Neeraj.

vi. That the petitioner was joined in the investigation on 11.12.2016 in pursuance of the interim orders passed by this Hon'ble Court in the present petition. The petitioner did not co-operate with the petitioner and did not give the satisfactory reply to the interrogatories put to him during the course of investigation. The petitioner did not tell how he arranged the original sale deed of the plot no.878, F-Block, I, Palam Vihar, Gurugram, whereas, the same was kept in the Corporation Bank at the time of Mortgaging the said plot. Further, he has shifted his guilt to his partner and co-accused Neeraj Gupta. He avoided stating the true facts before the investigating officer. He also did not co-operate in getting the amount of the sale deed of the first and second floor of the plot in question recovered.

vii. Thus, the custodial interrogation of the petitioner is required to be get the amount of the sale deeds recovered and to know how he arranged the original sale deed from the Corporation Bank as to whether with the connivance with bank

officials or otherwise. The custodial interrogation is also required to unearth the truth and to arrive at the just conclusion of the investigation.”

Looking to the above reply and the investigation made up till now, it is clear that the petitioner has committed a very serious offence of taking the complainant as well as the bank for a ride and it is very strange as to how the original sale deed was taken out of from the Corporation Bank. One more affidavit dated 25.05.2017 filed by Sumer Singh, HPS, Assistant Commissioner of Police, Udyog, Gurugram, is also relevant, in particular paras 4 and 5 thereof, which reads thus:

“4. That during the course of investigation, the co-accused of the petitioner namely Neeraj Gupta has also joined the investigation and he has stated that the petitioner is involved in the crime as he was the master mind of the crime and took Neeraj’s signatures on the documents by misguiding him.

5. That the custodial interrogation of the petitioner is required to get the amount of the sale deeds recovered and to know how he arranged the original sale deed from the Corporation Bank as to whether with the connivance with bank officials or otherwise. The custodial interrogation is also required to unearth the truth and to arrive at the just conclusion of the investigation. Thus, the

petitioner does not deserve the concession of anticipatory bail.”

It is thus clear that the investigating officer has rightly inferred the modus operandi of the officials of the bank also, to conspire with the fraudulent elements.

To sum up, there is ample evidence against the petitioner and a prima facie case is made out against her and therefore, the petitioner would not be entitled to the concession of anticipatory bail. The petition for anticipatory bail is therefore dismissed.

22nd SEPTEMBER, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned:	Yes	No
Whether Reportable:		
Yes	No	